

NATURAL RESOURCES COMMISSION

Meeting Minutes

July 16, 2008

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 6:05 p.m. on Wednesday, July 16, 2008. The following Commissioners were present: Montgomery Lovejoy, Acting Chair, Steve Verrill, and Jamie Bemis. George Lewis arrived at 6:17 p.m. Delia Kaye, Natural Resources Director, and Cynthia L. Gray, Natural Resources Administrative Assistant, were also present.

COMMISSION COMMENTS - None

CONTINUANCES:

BALULESCU – 10 Wood Street / NOI – Replacing an existing deck, constructing an addition to a single family dwelling, and reconstructing a driveway in the 200-foot Riverfront Area of the Sudbury River and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-970**

David Crossman of B & C Associates appeared with the applicant, Lano Balulescu. Three 3-foot high cedar posts will be installed as demarcation markers. The Commission requested that the applicant pull the invasive species by hand with no use of herbicides. The square footage of the area to be restored and the number of trees removed should be shown on a revised plan. The Commission stated that at least 80 percent of the proposed plantings would need to survive for two years before a Certificate of Compliance would be issued. The Applicant will be responsible for submitting a monitoring report documenting the success of the replacement plantings. Additional information is to be submitted by July 30, 2008.

This hearing was continued to the August 13, 2008 meeting at which time the Commission expects to close the hearing and issue an Order of Conditions.

WARE / NOI – 201 Independence Road and 525 Rear Lexington Road – Constructing two residential dwellings, associated driveways, wastewater treatment system, and stormwater management structures in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-974**

Rich Harrington of Stamski and McNary appeared with the applicant, Paul Ware, and Michael Kenney. At the request of the Commission's consultant, Charles Katuska, two additional wetland flags (WF 19A, onsite, and WF26A, offsite) were added to the plan. Chuck Katuska, made a brief overview of the project. The Natural Resources Commission submitted a letter to the Planning Board on the unique ecological characteristics of Gowing Swamp and suggested that the Planning Board require a hydrogeologic study to assess potential impacts to groundwater influences to Gowing Swamp. Steven Sbardella, 258 Independence Road requested that the existing soil type be

clarified. Chuck Doolittle, 221 Independence Road noted the varied elevation. He requested clarification on how the vernal pool setback proposed under the Wetland Bylaw would change the scope of the project. Louise Berliner, 179 Independence Road noted concern about potential construction impacts. Lawrence Curtiss, 23 Revolutionary Road referenced the trail system. Paul Ware indicated that some of the cart paths will be lost to the proposed development, but others will remain. Russell Wolf, 140 Revolutionary Road noted a public right-of-way (ROW) for access to the trails. Paul Ware indicated that is the land is private and that he allows the public to use it, but that there is no public ROW. Paul Ware indicated that he probably would not be willing to reduce the number of units currently proposed.

This hearing was continued to August 13, 2008.

TOWN OF CONCORD-CPW / NOI – 1.2 mile section of Route 62-Main Street – Repaving, installing stormwater management structures, constructing a headwall and sidewalk, portions of which are in the 200-foot Riverfront Area of the Assabet River and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-975**

Bill Mertz of Stantec appeared with Bill Renault, Concord Public Works. Different options relative to the drainage structures located by the Assabet River have been reviewed. Option A is the recommended alternative because it improves water quality.

Steve Verrill moved to close the hearing. George Lewis seconded. All so voted. Steve Verrill moved to approve Findings A-E. George Lewis seconded. All so voted. Steve Verrill moved to issue a standard Order of Conditions with Special Conditions 19-44. Jamie Bemis seconded. All so voted.

PALEOLOGOS / ANRAD – 800 Main Street – Confirmation of wetland resource area boundaries on the property, **DEP File #137-971. This hearing was continued to 8/13/08.**

DEPARTMENT OF CONSERVATION AND RECREATION / NOI – Walden Pond – Rehabilitating the east bank of Walden Pond, site improvements, pruning, and plantings in the 100-foot Buffer Zone to Bank of Walden Pond, **DEP File #137-972**

Betsy Hopkins of Understory Consulting appeared together with Victor Walker, Walker Kluesing Design Group, Bill Maher, PE, Project Manager, Nitsch Engineering and applicant, Joe Halloran. The site is in priority habitat for rare species. The project purpose is to restore the natural integrity of Walden Pond; improve the pedestrian access; erosion control; and to restore bank vegetation. The project is anticipated to start in late fall to coincide with off peak visitor use.. Any work that is started in the fall will be completed or stabilized before winter. An arborist will perform and supervise the proposed safety pruning. Bill Maher addressed the concerns raised by Concord Public Works Engineering. The Commission requested that a list of diseased or unhealthy trees be provided and the method of removal be provided to DNR staff. Proposed stormwater

management and compliance was also requested by the Commission, because the originally proposed infiltration unit has been removed from the plans.

This hearing was continued to August 13, 2008.

BRUCE / NOI – 369 Lindsay Pond Road – Constructing an attached garage and in-law suite addition, installing a new septic tank, removing and realigning a portion of the driveway, and landscaping in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-978**

Paul Minor, Architect appeared on behalf of the client. No green cards were previously submitted by Drew Garvin of R. Wilson & Associates, Inc. so this hearing could not be opened.

This hearing was continued to August 13, 2008.

TOCIO / NOI – 506 Old Bedford Road – Constructing nine single-family residential units, a sewage disposal system and stormwater treatment facility, a portion of which is in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-977**

Brian Butler of Oxbow Associates appeared on behalf of the applicant. In response to the letter from the Commission to the Planning Board, the Applicant is investigating the existing Conservation Restriction that was required under a previous Special Permit to Wayne Busa for a three-lot subdivision. Douglas C. Deschenes of Deschenes & Farrell, Chelmsford, MA is the project attorney. The Applicant will clarify the total acreage of the CR as it is referenced as 2.03 acres in the application but Concord GIS mapping shows it as 2.09 acres. The Commission requested that any trees over 6 inches to be removed in the jurisdictional areas be shown on the plan. The Commission also requested that the applicant evaluate whether the proposed roadway width of 19 feet can be reduced and still meet Fire and Planning Board requirements.

David Negrin, 40 Bronson Way presented a series of pictures to the Commission and stated that the water table will rise in the Elm Brook neighborhood if the proposed project is approved. There is an easement between Mr. Negrin's property and 45 Bronson Way that currently floods. The stormwater basin constructed for runoff on the Bronson Way subdivision is used as snow storage. Elizabeth Elden, 347 Old Bedford Road submitted a letter to the Commission and noted that the neighborhood was subject to year round flooding. Leonard Solomon, 498 Old Bedford Road noted his familiarity with the flooding problems. He stated that he expects that he will need to install a second sump pump to keep the other side of his basement dry if the project is approved. Robert Krueger, 528 Old Bedford Road noted that he has three sump pumps in his basement and that they are in use from March through May.

This hearing was continued to August 13, 2008.

NEW APPLICATIONS:

GRACE PROPERTIES, LLC (Malouf) / NOI – 63B Cambridge Turnpike -
Constructing additions and associated wooden decks to the front of two buildings within the 200-foot Riverfront Area of Mill Brook and 100-foot Buffer Zone of Bordering Vegetated Wetland, **DEP File #137-979**

Applicant, Michael Malouf appeared with Lisa Standley, PhD., Chief Environmental Scientist of Vanasse Hangen Brustlin, Inc., Matthew Bombaci, Staff Engineer of Goldsmith, Prest & Ringwall, Inc. and Roy Cramer, Esq. Two small additions are proposed, one to each house. The larger of the two is 330 square feet. The smaller is 328 square feet. There is no new alteration to the 100-foot Buffer Zone. Roof runoff will be directed to drywells which are slightly larger than the original approved design. The Commission asked if the applicant would be willing to reduce the impervious surface. Attorney Roy Cramer stated that the applicant could not reduce the area as it couldn't be marketed and there was no other area to compensate for any reduction. The Commission requested that the applicant explore reducing the turnaround area from 22 feet to 18 feet with the Fire Department. Information regarding the turnaround area will be submitted to DNR staff by July 30, 2008.

This hearing was continued to August 13, 2008 at which time the Commission expects to close the hearing and issue an Order of Conditions.

NASHOBA BROOKS SCHOOL / NOI – 200, 280 Strawberry Hill Road and 3B Macone Farm Lane –Removing one single-family dwelling, constructing four tennis courts and one multi-use field, expanding the existing parking lot, constructing additional sidewalks, and stormwater improvements. A portion of this work is in the 200-foot Riverfront area of an unnamed stream and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-980**

Rich Harrington and Joseph March, of Stamski and McNary appeared with applicant, Kay Cowan, Head of Nashoba Brooks School and David Crossman of B & C Associates. Kay Cowan spoke of the need for this project. There are two onsite fields, one regulation size and one slightly smaller. The school acquired the Macone land with the intent of using it for additional playing fields. The tennis program commenced in 1992 and can only accommodate 14 girls. Nashoba Brooks School contracts annually with the Annursnac Hill Association for use of its tennis courts for school practice sessions. There is no sanitation system in place for 14 girls. There is a need for 4 tennis courts, but Kay Cowan indicated that she would prefer 6 tennis courts. The tennis courts will consist of asphalt with an acrylic surface. The Commission requested that the alternatives analysis provide base cost numbers for the tennis courts.

Alternative #2, the preferred alternative, proposes 4 tennis courts and one grass multi-purpose field. Two trees in the Riverfront Area will be removed. The proposed multi-purpose field will be located where the two existing single-family dwellings are.

The School's preference for the tennis courts direction is north to south to avoid students playing with sun in their eyes.. No lighting is proposed for the fields or the tennis courts.

The Commission thanked Ms. Cowan for a better description of the need for four courts than was provided in the NOI narrative. The Commission requested a more robust alternatives analysis that explored whether courts could be located on other parcels owned by the school, such as the southern portion of the property or Alford Field that would have less adverse impact on the Riverfront Area.

The Commission questioned whether the proposed parking was necessary for the proposed field and tennis courts, and the Applicant responded that additional parking is proposed in anticipation of a future building addition.

The Commission requested clarification on the landscaping plan. More information is needed on the invasives control (types of species, methods of control) and the proposed mitigation plantings, including in the proposed rain garden. Delia Kaye will meet with Hasso Ewing to discuss the proposed landscape plan.

The Commission questioned the results of the Wildlife Habitat Evaluation, which essentially states that there is no wildlife habitat onsite. The Applicant should evaluate the site for turtle nesting habitat, particularly as spotted turtles are known to nest in the vicinity. Steve Cadwell, 29 Temple Road noted his appreciation of the school sharing information. Mark Carbeau, 35 Macone Farm Lane noted the three homes on Macone Farm Lane and would like to see a less visual impact.

The limit of work will be staked for the Commission site walk scheduled for Tuesday, July 22, 2008 at 9:30 a.m. This hearing was continued to August 13, 2008.

HILL / NOI - 107 Westford Road – Tree removal, construction of new stone walls, reconstruction of existing stone walls, and reconstructing a driveway within the 100-foot Buffer Zone to Bordering Vegetated Wetland, DEP File #137-981

Nick Reed, landscape architect and David Crossman of B & C Associations appeared on behalf of the applicant. B & C Associates did the wetland delineation earlier this year. David Crossman will provide soils information to DNR staff for confirmation of the wetland line. Location of the bollards in the 25-foot No Disturb Zone will be identified with four-foot high wooden posts. Sizes of the plantings will be added to the plan.

The applicant will submit changes to DNR staff by July 30, 2008. This matter was continued to August 13, 2008.

MORITZ / RDA 08-09 - 78 Southfield Road - Removing a shed, tree stump, several shrubs, and replanting within the 100-foot Buffer Zone to Bordering Vegetated Wetland.

Applicants Keith and Janice Moritz appeared. The Applicants wish to amend Determination of Applicability 08-08 as they would like to add a screened porch which

would be within 83 feet of Bordering Vegetated Wetland. Steve Verrill moved to amend Determination of Applicability 08-08 for the applicant to construct an addition to an existing single-family structure 83 feet from Bordering Vegetated Wetland. George Lewis seconded. All so voted.

The Applicants filed a separate Request for Determination of Applicability, RDA 08-09 to remove a shed, tree stump, several shrubs and replantings within the 100-foot Buffer Zone to Bordering Vegetated Wetland. The Commission requested that the applicant submit a revised erosion and sedimentation control plan for review and approval by Natural Resources staff. Prior to construction, the applicant shall submit a planting plan for review and approval by the Natural Resources staff to mitigate for shrub removal. The planting plan will include a minimum of 10 native species between 0 and 50 feet of the wetland. The planting plan shall include proposed locations, species, and size. All plantings must survive for at least two growing seasons and the Applicant shall submit an annual report over a two-year period to report on the success of the invasive species removal and the success of the plantings. George Lewis moved to issue a Negative #3 Determination of Applicability together with Special Conditions 1-9. Steve Verrill seconded. All so voted.

NATIONAL GUARD ARMORY / NOI – 91 Everett Street – Regrading, installing a subsurface drainage system, clearing debris, and redirecting flow to mitigate basement flooding in Bank, Bordering Land Subject to Flooding and within the 100-foot Buffer Zone to Bank, DEP File #137-982

Stephen Chapman of Fay Spofford & Thorndike, LLC appeared with Steven Wagner and Keith Driscoll, both of the Commonwealth of Massachusetts Military Division of Environmental Affairs. Subsurface testing took place on April 4, 2008 with 5 test pits established 7 to 8 feet below grade. The west side of the premises tends to pond water. Contour lines were followed relative to compensatory storage. Work will occur on both sides of the channel. The applicant will obtain the written approval of the adjacent property owners. The Commission requested cut and fill calculations for the proposed floodplain fill and compensatory storage.

Robert Carper, 171 Stow Street has lived at this address for four years. His home was built in 1915. Every spring water seeps into his basement. Mr. Carper indicated that diesel fuel is currently being stored in the parking area.

Additional information will be submitted to DNR staff by July 30, 2008. This hearing was continued to August 13, 2008.

FOLK / NOI – 181 Lowell Road – After-the-fact tree removal and wetland restoration in Bordering Vegetated Wetland, Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetland, DEP File #137-983. This hearing was continued to 8/13/08.

CONCORD WOLD LLC / NOI - 110 Commerford Road - Accessing upland areas of the site to conduct soil testing in Bordering Vegetated Wetland, Bank, Land Under Water, the 200-foot Riverfront Area of Baptist Brook, and the 100-foot Buffer Zone to Bordering Vegetated Wetland and Bank, DEP File # 137-984

Rich Harrington of Stamski and McNary appeared on behalf of the applicant. The applicant previously submitted a Request for Determination to the Division of Natural Resources for the proposed work, and the Commission issued a Positive Determination requiring a Notice of Intent for the proposed work. The applicant appealed to DEP, who issued a Superseding Order agreeing that a Notice of Intent was required.

Four alternatives for the proposed access were discussed. The Commission determined that Alternatives 1 and 1A appeared the least damaging to wetland resource areas.

The applicant is proposing a standard excavator with metal tracks. Metal tracks provide more power and will shorten the timeframe for soil testing. Planks will be used to lessen the disturbance. The soil testing will be observed by Rich Harrington of Stamski and McNary. The Commission stated that a Special Condition would be included requiring that test pits be shown on a plan, and that an Environmental Monitor oversee activities in the jurisdictional areas.

This hearing was continued to August 13, 2008 at which time the Commission expects to close the hearing and issue an Order of Conditions.

REQUEST TO AMEND:

ESTABROOK ROAD NOMINEE TRUST – 55 Estabrook Road, DEP File #137-925

ESTABROOK ROAD NOMINEE TRUST – 55 Estabrook Road, DEP File #137-951

Gregor McGregor, Esq. of McGregor and Associates appeared on behalf of the applicant together with David Newton of C. H. Newton Builders and Joel Kubrick of Holmes & McGrath. Photographs were presented to the Commission at this evening's hearing. Plantings have doubled.

The Commission will hold a meeting on Tuesday, July 22, 2008 to issue both amended Orders of Condition together with Findings and Special Conditions.

CLOSE HEARING/ISSUE PERMITS:

SAUX / NOI – 1797 Main Street, DEP File #137-976

George Lewis moved to close the hearing. Steve Verrill seconded. All so voted. George Lewis moved to approve the Findings including the standard Riverfront findings. Steve Verrill seconded. All so voted. George Lewis moved to issue a standard Order of Conditions with Special Conditions 19-43. Jamie Bemis seconded. All so voted.

CERTIFICATES OF COMPLIANCE:

BERCEL – 61 Black Duck Road, DEP File #137-864

Steve Verrill moved to issue a Certificate of Compliance. Jamie Bemis seconded. All so voted.

THE JUSTICE RESOURCE INSTITUTE – 1749 Main Street, DEP File #137-945

Steve Verrill moved to issue a Certificate of Compliance. Jamie Bemis seconded. All so voted.

THOMSON – 330 Main Street, DEP File #137-928

Steve Verrill moved to issue a Certificate of Compliance. Jamie Bemis seconded. All so voted.

OTHER BUSINESS:

Finigan Way Conservation Restriction – formal NRC vote

The land at 14A Strawberry Hill Road requires a Conservation Restriction in accordance with the Zoning Bylaw. In this case, the Applicant intends to convey the open space parcels to the Town, which will constitute a merger of interest, effectively dissolving the CR. George Lewis moved that the Natural Resources Commission request the Board of Selectmen approve the conservation restriction recognizing that when the land is deeded to the Town, it will be for conservation purposes only. Steve Verrill seconded. All so voted.

NRC representative to the HDC

Jamie Bemis will contact Stephanie Leone and Annette Bagley to discuss their interest in appointment to the Historical Districts Commission.

Marabello/Boston Bark update

A DAR meeting is scheduled for July 24, 2008 with Town Counsel, the Department of Agriculture, Marabello and Boston Bark, the Town Manager, Zoning Enforcement Officer, Health Director, and Natural Resources Director.

Approve May 21, 2008 meeting minutes – Tabled until the next scheduled meeting.

Approve June 4, 2008 meeting minutes – Tabled until the next scheduled meeting.

Approve June 24, 2008 meeting minutes – Tabled until the next scheduled meeting.

This meeting adjourned at 12:00 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Director

Cynthia L. Gray, Natural Resources Administrative Assistant